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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,887	08/31/2001	Donald J. Remboski	IA00009	4070
23330	7590	01/07/2005	EXAMINER	
MOTOROLA, INC. Corporate Law Department - #56-238 3102 North 56th Street Phoenix, AZ 85018			SHAH, CHIRAG G	
			ART UNIT	PAPER NUMBER
			2664	

DATE MAILED: 01/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/944,887	Applicant(s) REMBOSKI ET AL.	
	Examiner Chirag G Shah	Art Unit 2664	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-5 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3-6 of copending Application No. 09/944892. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one of ordinary skills in the art the present invention (09/944887) above claims are broader than the copending Application No. 09/944892.

The comparison of the two application:

Both claims 1 include a vehicle having an active network communicatively coupling the devices to provide a plurality of communication paths between devices for communication.

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Claim 1 of the present Application includes a vehicle comprising an active network for communicating between devices within a vehicle, whereas the copending Application 09/944892, includes a vehicle comprising two devices, first device and a second device, where an active network is communicatively coupled to the two devices. Therefore, both claim 1 languages are phrased differently to claim the same matter, thus they are not patentably distinct from each other.

Claims 2-5 of the present application are identical to claims 3-6 respectively of the copending Application No. 09/944892.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-18 rejected under 35 U.S.C. 103(a) as being unpatentable over Razavi et al (WO 00/77620) in view of Oliveira et al (U.S. Patent No. 6,579,208), further in view of Lee et al. (U.S. Patent No. 6,609,127).

Referring to claims 1 and 13, Razavi discloses a system for integrating components into a vehicle, wherein the components comprises devices (29-37) coupled to an in-car network (as

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disclosed in figure 2), the devices (29-37) communicating via connection media 12 (as disclosed in figure 1). Razavi further discloses in the abstract that the network provides for easy re-configuration and upgrading to the devices of the vehicle.

Razavi, however fails to disclose the coupling of devices through an active network for controlling the flow of data amongst the devices.

Oliveira discloses the use of a control area network (CAN) within vehicles for the purpose of transferring data amongst different devices (such as brakes, fuel control, climate control, suspension, etc. as disclosed in col. 3, lines 5-32). The CAN system electronically interconnects all the network members by a simple tow wire, twisted pair cable and provides high-speed serial digital data transfer between all members in the system. The network members consist of the various vehicle systems and sub-systems, or in many cases, their control units. Furthermore, in operation, one of the CAN system members may be an on-board computer or microprocessor serving as a vehicle management system responsible for the overall control of the vehicle. Oliveira discloses in column 4, lines 24-64 uses the CAN for monitoring gearshift control with digital data interface to allow transfer of digital data between the control unit and other vehicle system through the CAN system. Since (as disclosed in col. 3, lines 15-31) CANs may be used to control any number of vehicular components including the gear shift control, engine, fuel control, braking, suspension, climate control, etc., it would have been obvious to one of ordinary skills in the art at the time of the invention to use a CAN network as taught by Oliveira within Razavi's invention to control plurality of network devices in order to provide high-speed serial digital data transfer between all members in the system, controlling the flow of data amongst devices.

Razavi discloses a system for integrating components into a vehicle, wherein the components comprise devices (29-37) coupled to an in-car network (figure2). Oliveira discloses the use of a control area network (CAN) within vehicles. Razavi and Oliveira fail to disclose the use of active networks.

Lee discloses coupling of devices (within a home or business as in col. 2, lines 15-20) through the use of CAN, which also comprises of active networks such as WANs, LANs, etc... as well as passive networks such as fibreoptic links (as disclosed in col. 3, lines 29-37). Active networks and CANs provide coupling of network devices to effectively communicate throughout the network for controlling traffic flow through dynamic adaptation of processing elements deployed within the network (see fig. 1, 2, col. 3, lines 19-27 and col. 4, lines 32-36).

Since CANs and active networks both provide a communications coupling and controlled data flow through network devices, thus, it would have been obvious to one of ordinary skill at the time of invention to incorporate the use of a CAN within Razavi for the purpose of controlling and dynamically reconfiguring data flow through any number of network devices within the vehicle that may also include active networks such as in-car Ethernet LAN.

Referring to claim 2-4 and 6, Razavi discloses on page 6, lines 3-23 of active network elements comprising a switch, router and a bridge as claim.

Referring to claim 5, Razavi discloses in the abstract and on page 3, lines 40 wherein the active network comprises of a packet data network as claim.

Referring to claim 7, Razavi discloses in figure 2 that device network element LAN and the second device element modem are communicatively coupled.

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Referring to claims 8, Lee discloses in figure 1 wherein the device network element (master controller 1) is coupled to a first portion of the active network (master controller 2) and the second device network element (master controller 3) is coupled to a second portion of the active network (master controller 2). Lee further discloses in col. 2, lines 32-50 that one master controller defines one CAN system. In addition, Lee discloses in column 3, lines 5-45 that each master controller 28 may be coupled to one or more other master controllers by an intramaster link, which may be WAN link or LAN link.

Referring to claim 9, Lee discloses in figure 1 and in col. 3, lines 19-28 wherein the device (slave device 33) includes a first functional element (includes a plurality of ports 35, which may be used to communicate with one or more associated external devices 34) and a second functional element (second of the plurality of ports 35), and wherein the first functional element (one of plurality of ports 35) and the second functional element (second of the plurality of ports 35) are coupled to the device network element (master controller 1) as disclosed in figure 1.

Referring to claim 10 and 17, Lee discloses in figure 1 of coupling the first (master controller 1) and second device network elements (master controller 3) to the active network (master controller 2) comprises coupling the first device network element (master controller 1) to a first active element (Internet) of the active network (master controller 2) and coupling the second device network element (master controller 3) to a second active element (Hub 31) of the active network.

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Referring to claim 11, Razavi disclose in figure 2 wherein the first device network element (Ethernet LAN) and the second device network element (modem) are communicatively coupled as claim.

Referring to claim 12, Lee discloses in figure 1 and in col. 3, lines 29-45 wherein the active network (Master controller 2) comprises a plurality of active network elements (Master controllers 1 & 3) coupled by connection media (intermaster link 36A, 36B and 36C).

Referring to claim 14, Lee discloses in figure 1 wherein the step of coupling the device network element (master controller 1) to the active network (master controller 2) comprising coupling the device network element (master controller 1) to one of the active network element (master controller 2) of the plurality of active network elements (master controller 1, 2 and 3).

Referring to claim 15, Lee discloses in figure 1 wherein the step of coupling the device network element (master controller 1) to the active network (master controller 2) comprises coupling the device network element (master controller 1) to a first active element (master controller 2) of the plurality of active network elements and to a second active element (master controller 3) of the plurality of active network elements.

Referring to claim 16, Lee discloses in figure 1 wherein the step of providing a device network element (master controller 1) comprises providing a first device network element (master controller 1) and a second device network element (master controller 3) and wherein the step of coupling the device network element (master controller 1) to the active network (master controller 2) comprises coupling the first and second device network elements (master controller 1 and 3) to the active network (master controller 2).

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Referring to claim 18, Lee discloses in figure 1 wherein the step of coupling the first and second device network elements (master controller 1 and 3) to the active network (master controller 2) comprises coupling the first and second device network elements (master controller 1 and 3) to the active network (master controller 2) comprises coupling the first and second device network elements (master controller 1 and 3) to a first active element (Internet) of the active network (master controller 1) and coupling the first and second device network elements to a second active element (Hub) of the active network.

Response to Arguments

6. Applicant's arguments, see paragraph 3 on page 5 from Applicant's Remarks, filed , with respect to 11/12/04 have been fully considered and are persuasive. The rejection of claims 1-18 has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made on a new found prior Art reference, Razavi et al (WO 00/77620) in view of Oliveira et al (U.S. Patent No. 6,579,208), further in view of Lee et al. (U.S. Patent No. 6,609,127).

Conclusion

Any response to this action should be mailed to:

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Or faxed to:

(703)305-3988, (for formal communications intended for entry)

Or:

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(703)305-3988 (for informal or draft communications, please label "Proposed" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2021 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chirag G Shah whose telephone number is 571-272-3144. The examiner can normally be reached on M-F 6:45 to 4:15, 2nd Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on 571-272-3134. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

cgs
December 21, 2004


Ajit Patel
Primary Examiner